

ENTERED

January 28, 2020

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA

§

§

versus

§

Criminal Case 2:20-cr-00015

§

Emmanuel Garcia-Diaz

§

**FINDINGS AND RECOMMENDATION
ON PLEA OF GUILTY**

This case has been referred to the undersigned United States Magistrate Judge for the purpose of conducting a felony guilty plea proceeding pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The undersigned submits these Findings and Recommendation to the District Judge pursuant to 28 U.S.C. § 636(b)(3). All parties have waived the right to plead before a United States District Judge, and additionally, have consented to proceed before the undersigned.

The defendant and counsel appeared before the undersigned who addressed the defendant personally in open court and informed the defendant of, and determined that the defendant understood, the admonishments under Rule 11 of the Federal Rules of Criminal Procedure.

After being placed under oath and admonished in accordance with Rule 11, the defendant pleaded guilty to Count One (1) of the indictment. The undersigned Magistrate Judge finds the defendant understands the following rights, procedures, facts and obligations as required by Rule 11:

1. The government's right, in a prosecution for perjury or false statement, to use against the defendant any statement the defendant gives under oath;
2. The right to plead not guilty, or having already so pleaded, to persist in that plea;
3. The right to a jury trial;
4. The right to be represented by counsel, and if necessary, to have counsel appointed and present at every stage of the proceedings including trial;

5. The right at trial to confront and cross examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel attendance of witnesses;
6. These trial rights will be waived if the Court accepts the plea of guilty;
7. The nature of each charge to which the defendant is pleading guilty;
8. The maximum possible penalties, including imprisonment, fine, and term of supervised release;
9. Any applicable mandatory minimum penalty;
10. Any applicable forfeiture;
11. The Court's authority to order restitution;
12. The Court's obligation to impose a special assessment;
13. In determining a sentence, the Court's obligation to calculate the applicable sentencing guideline range and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a);
14. The terms of the plea agreement, if applicable, including any provisions waiving the right to appeal or to collaterally attack the sentence; and
15. That if convicted a defendant who is not a citizen of the United States may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

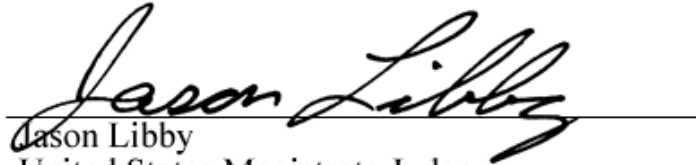
The undersigned Magistrate Judge further finds:

1. The defendant is mentally competent to enter the plea of guilty;
2. The defendant entered the plea of guilty voluntarily and did not result from force, threats, or promises other than those contained in a plea agreement;
3. There is a sufficient factual basis to accept this plea of guilty.
4. The ends of justice will be served by acceptance of the defendant's plea of guilty.

RECOMMENDATION

It is respectfully recommended that the District Court adopt the foregoing findings, accept the defendant's plea of guilty, and enter a finding that the defendant is guilty.

Respectfully submitted the 28th of January 2020.


Jason Libby
United States Magistrate Judge

NOTICE TO PARTIES

The Clerk will file the Findings and Recommendation on Plea of Guilty and transmit a copy to each party or counsel. Within FOURTEEN (14) DAYS after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve on the United States Magistrate Judge and all parties, written objections, pursuant to Fed. R. Crim. P. 59(b), 28 U.S.C. § 636(b)(1), and General Order No. 2002-13, United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within **FOURTEEN (14) DAYS** after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).